

## Suggested Modifications to Zoning Ordinance for Public Use Space Provisions

### Definitions

*Open Area* - An area of land associated with and located on the same tract of land as a major building or group of buildings providing light and air, scenic or recreational space, or other similar purpose.

1. Open area ~~shall~~must, in general, be available for entry and use by the occupants of the building involved, but may include space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness.
2. Open area may include, but not be limited to, lawns, decorative planting, sidewalks and walkways, and active and passive recreation areas, including children's playgrounds, fountains, swimming pools, rooftop recreation areas, wooded areas, and watercourses; but shall not include parking lots or vehicular surfaces, accessory buildings other than swimming pools, or areas of open space so located or so small or so circumscribed by buildings, parking, or drainage areas as to have no substantial value for the purposes stated in this paragraph.

*Public Use Space* - An open area associated with and located on the same tract of land as a principal building or group of buildings providing light and air, recreational space, or other similar purpose. Such open area must be accessible for use and enjoyment by the general public when provided in a residential, retail or mixed-use project, and may include space so located and treated as to enhance the amenity of the development by providing landscaping features, screening, or a general appearance of openness, and may include accessible portions of a stormwater management facility. In addition, public use space may also consist of open areas recommended in an adopted master plan, including enhanced public walkways and off-site public improvements. Such public improvements do not include road improvements or other capital projects in the vicinity of the property. Internal landscaping within a parking facility, as required in Section 4.d of the Landscaping, Screening and Lighting Manual, does not constitute Public Use Space. Development consisting primarily of office and/or industrial uses may include space accessible to the public or the employees of the site for the purpose of satisfying the public use space requirement.

## Mixed Use Zones Standards

Revise the standards table as follows:

Zone	Maximum Height (in feet) <sup>2</sup>	Open Area and Public Use Space <sup>3</sup>		Setbacks					Special Regulations
		<u>Total Open Area Required</u>	<u>Public Use Space Required within Open Area</u>	Public Right-of-way Abutting	Side		Rear		
					Residential Land Abutting	Non-residential Land Abutting <sup>1</sup>	Residential Land Abutting	Non-residential Land Abutting	
<b>MXTD</b>	120	10% (15% if residential dwellings are provided)	10%	None	25' or height of building, whichever is greater	None. 10' min. if provided	25' or height of building, whichever is greater	None. 10' min. if provided	See Secs. 25.13.05.b.2(a) and 25.13.05.b.2(d)
<b>MXCD</b>	75	For sites <20,000 sq. ft. – 10%	5%	None	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	See Secs. 25.13.05.b.2(b) and 25.13.05.b.2(d)
		For sites 20,000 sq. ft. or more 15%	10%						
<b>MXE</b>	120	20%	5%	None required. 10' min. if provided	25' or ½ height of building, whichever is greater	None required. 10' min. if provided	25' or ½ height of building, whichever is greater	None required. 10' min. if provided	See Sec. 25.13.05.b.2(d)
<b>MXB</b>	55	For sites <20,000 sq. ft. – 10%	=	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or ½ height of building, whichever is greater	None required. 10' min. if provided	
		For sites 20,000 sq. ft. or more 10%	5%						
<b>MXNC</b>	45 <sup>4</sup>	For sites <20,000 sq. ft. – 10%	=	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	See Sec. 25.13.05.b.2(d)
		For sites 20,000 sq. ft. or more 10%	5%						
<b>MXC</b>	30	10%	=	10'	15'	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	
<b>MXT</b>	35	10%	=	10'	10'	None	20'	None required. 10' min. if provided	

<sup>1</sup>Nonresidential Land Abutting Side Setback – This term also includes multi-unit residential uses with a height of 45 feet or greater.

<sup>2</sup> Height is subject to the provisions of Section 25.13.05.b.2, below.

<sup>3</sup>Where the applicable master plan makes specific recommendations on the provision of amenity area and public use space requirements, the master plan recommendations must take precedence.

<sup>4</sup>Open area and public use space requirements for development above 45 feet are shown in Sec. 25.13.05.b.2(c).

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- (c) MXNC Zone – Building height may be increased up to 65 feet when found suitable in accordance with the Plan. If the Plan makes no other recommendation, development between 45 feet and 65 feet must provide 15 percent open area, of which 10 percent must be public use space.

Amend Article 17 as follows:

#### **25.17.01 – Public Use Space**

- a. *Purpose* – Public use space requirements are intended to promote an appropriate balance between the built environment, public parks and other open spaces intended for respite from urban development, and to protect natural features and preserve the character of the City.
- b. *General Requirements* – Where provided, such public use space must be accessible for use and enjoyment by the general public when provided in a residential, retail or mixed-use project. Development consisting primarily of office and/or industrial uses may provide an open area, as defined in Article 3, for the purpose of satisfying the public use space requirement. The Approving Authority may allow reasonable limitations on access to the public use space to meet safety or security concerns.
  - 1. Where development does not comply with the public use space requirement, the following regulations apply:
    - (a) Building expansions or cumulative additions that exceed 50 percent and up to 100 percent of the existing gross floor area must provide a proportionate amount of public use space on site using a factor of 0.2 times the percentage increase in gross floor area up to the required 20 percent public use space requirement (example: 75 percent increase in existing gross floor area x 0.2 = 15 percent public use space requirement).
    - (b) Any building expansion or cumulative addition that exceeds 100 percent of the existing gross floor area must provide public use space as set forth in Section 25.13.05.b.1.

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#### **d. *Fee in Lieu of Public Use Space Requirements***

- 1. The Approving Authority may approve the payment of a fee in lieu of some or all of the public use space requirement under any of the following circumstances:
  - (a) The City could use the fee to provide and/or improve another more usable public space in the vicinity of the project; ~~or~~

- (b) The site cannot realistically provide the required area for public use and meet all of the other City development standard requirements; or
  - (c) The applicable master plan makes specific recommendations on how and where public use space is to be provided on or in the vicinity of the site.
- 2. Any approved fee in lieu of the public use space requirement shall be paid in an amount set by resolution of Mayor and Council.
- e. *Exemption for Affordable Housing Projects or for Housing for Senior Adults and Persons with Disabilities.* The following are exempt from the public use space requirement: Projects that consist entirely of affordable dwelling units, defined as units designated for households with incomes at or below the area median income limits; and projects including housing for senior adults and persons with disabilities.

**Note:** Depending on the final modifications to the public use space requirements in the development standards, the proportionate public use space calculation for expansions to existing development may have to be modified.